

Student Abstract

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Title: A Legal Duty to Sacrifice? An Analysis of the Court's Decisions on Civil Confinement in Taipei Municipal Heping Hospital Incident During the SARS Epidemic in Taiwan

Abstract: During the SARS epidemic, Taipei Municipal Heping Hospital (TMHH) was shut down when the public authorities found widespread infection inside the hospital. Hundreds of staff, patients and visitors were locked inside the hospital. Off-duty staff was required to go and remain at the hospital. This article looks at the legal response to the civil confinement measures and provides an analysis of the legal and ethical issues involved, using data collected from the database created and maintained by the Judicial Yuan of Taiwan to discover cases decided in the Taipei High Administrative Court, which has the judicial power to review Taipei City's orders. Five staff members of the hospital individually brought cases against Taipei City, alleging violation of procedural due process and unconstitutional infringement upon individual rights. The five cases were tried by five different divisions of the Taipei High Administrative Court, and all found unanimously in favor of the government. Analysis shows that the court loosely interpreted procedural and substantive statutes in justification of unknowns of the emerging disease. The court also embraced the notion that hospital staff should bear a higher duty in being subjected to civil confinement during an epidemic, reflecting a traditional Chinese Medicine Virtue of self-sacrifice for the country that may have an adverse impact on controlling epidemics.